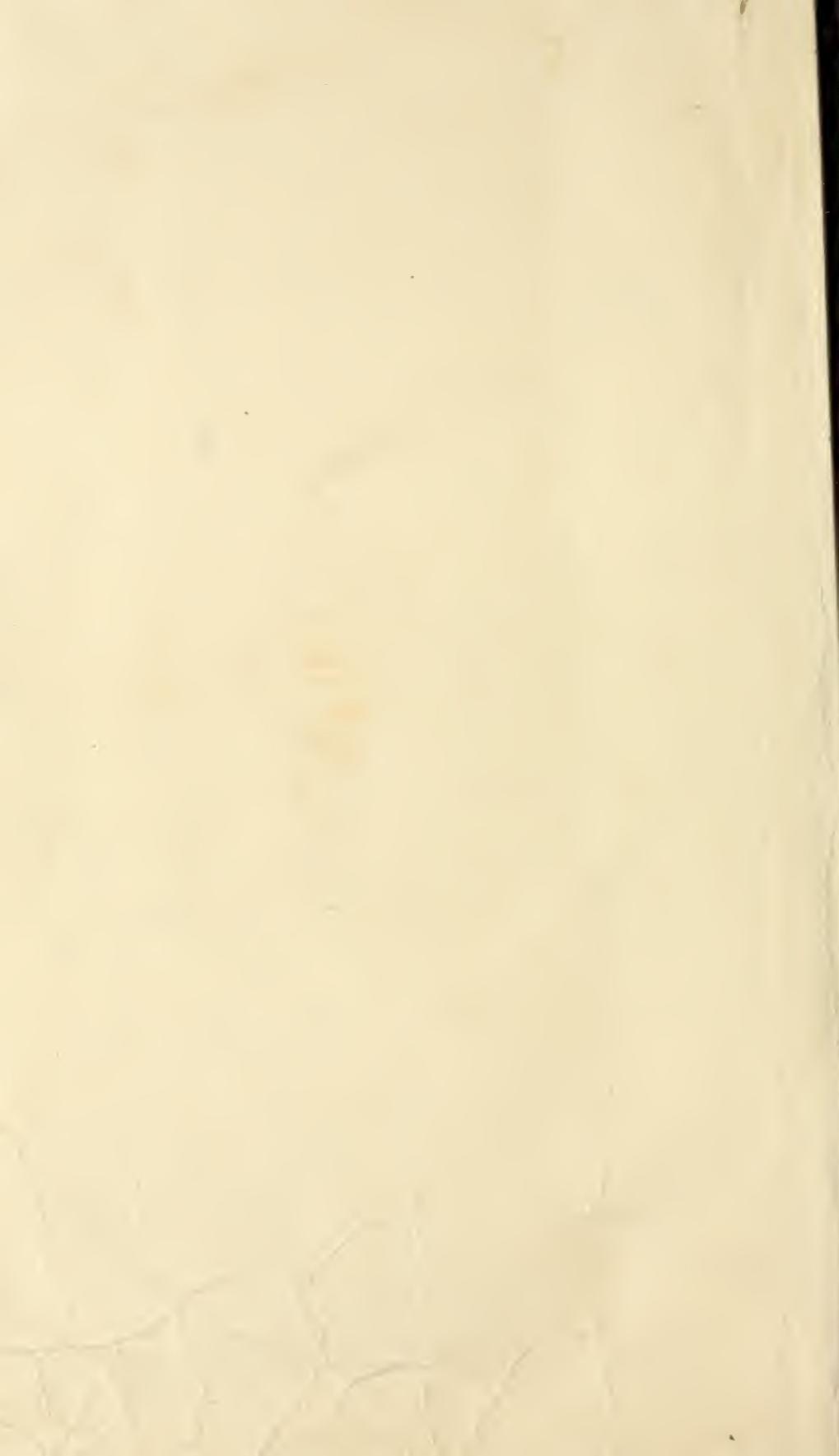


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# United States Department of Agriculture

## Agricultural Marketing Service

### SERVICE AND REGULATORY ANNOUNCEMENTS NO. 98 (REVISED)<sup>1</sup>

## RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE GOVERNING THE GRADING AND CER- TIFICATION OF MEATS, PREPARED MEATS, AND MEAT PRODUCTS; AND ADMINISTRATOR'S INSTRUCTIONS THEREUNDER

**(Title 7, Ch. I, SubCh. C, Pt. 53 of the Code of Federal Regulations)**

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The following rules and regulations include those issued by the Secretary of Agriculture effective April 9, 1948, with subsequent amendments under the Agricultural Marketing Act of 1946 (7 U. S. C. 1621 et seq.) and the item for Market Inspection of Farm Products recurring in the annual Appropriation Act of the Department of Agriculture (7 U. S. C. 414).

The Administrator's instructions (53.3a and 53.35a) were issued by the former Production and Marketing Administration (the functions are now performed by the Agricultural Marketing Service), effective September 17, 1949, and February 1, 1949, respectively, with subsequent amendments, under the regulations.

<sup>1</sup> This announcement was published as Service and Regulatory Announcements No. 98 (revised) of the Production and Marketing Administration in January 1951. The administration of these rules and regulations is now a function of the Agricultural Marketing Service.

## DEFINITIONS

**53.1 Meaning of words.**—Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

**53.2 Terms defined.**—For the purpose of the regulations in this part, unless the context otherwise requires, the following terms shall be construed respectively to mean:

(a) *The acts.*—The Agricultural Marketing Act of 1946 (Title II of the act of Congress approved August 14, 1946, 60 Stat. 1087) and the following provision of the act of Congress making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1948, and for other purposes, approved July 30, 1947 (61 Stat. 523), or a similar provision of any future act of Congress conferring like authority:

"For the investigations and certification, in one or more jurisdictions, to shippers and other interested parties of the class, quality, and condition of any agricultural commodity or food product, whether raw, dried, canned, or otherwise processed, and any product containing an agricultural commodity or derivative thereof when offered for interstate shipment or when received at such important central markets as the Secretary may from time to time designate, or at points which may be conveniently reached therefrom under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered."

(b) *Department.*—The United States Department of Agriculture.

(c) *Secretary.*—"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) *Service.*—Agricultural Marketing Service of the Department.

(e) *Administrator.*—The Administrator of the Service, or any officer or employee of the Service to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, to act in his stead.

(f) *Person.* Individual, association, partnership, other group of individuals, or corporation.

(g) *Financially interested party.*—Any person having a financial interest in the products involved, including but not limited to the shipper, receiver, or carrier, or any authorized person acting on behalf of such party.

(h) *Applicant.*—A financially interested party who requests product grading services.

(i) *Official grader.*—An employee of the Department authorized by the Secretary to grade products and investigate and certify to shippers and other financially interested parties the class, grade, other quality designation, quantity, or condition of products under the acts.

(j) *Supervisor of grading.*—An official grader or other qualified person designated by the Administrator to supervise grading, grade identification, and certification of products and to maintain uniformity thereof under the provisions of the acts and the regulations.

(k) *Regulations.*—Rules and regulations of the Secretary in this part.

(l) *Products.*—Meats, prepared meats, meat food products, and meat byproducts prepared under Federal inspection or under other official inspection acceptable to the Administrator.

(m) *Meat.*—The skeletal part of cattle, sheep, swine, or goats intended for human food with or without the overlying fat, portions of bones, skins, and other normal components of the flesh, and the edible part of the muscle found in the tongue, the diaphragm, the heart, and the esophagus.

(n) *Prepared meats.*—The product intended for human food obtained by subjecting meat to a process of drying, curing, smoking, cooking, comminuting, seasoning, or flavoring, or to any combination of such processes, to which no considerable quantity of any substance other than meat or meat byproducts has been added.

(o) *Meat food products.*—Any articles of food or any articles which enter into the composition of food for human consumption which are derived or prepared, in whole or in substantial and definite part, by a process of manufacture, from any edible portion of cattle, sheep, swine, or goats.

(p) *Meat byproducts*.—All edible parts, other than meat, intended for human food, derived from cattle, sheep, swine, or goats, and including such organs and parts as livers, kidneys, sweetbreads, brains, lungs, spleens, stomachs, tripe, lips, snouts, and ears.

(q) *Carcass*.—The commercially prepared or dressed body of any cattle, sheep, swine, or goat intended for human food.

(r) *Designated market*.—Any shipping, receiving, handling, or distributing point designated by the Administrator as an important central market where products are prepared, shipped, or distributed in commerce in considerable quantity and may be graded and certified under the acts.

(s) *Designated location*.—A point designated by the Administrator, with activity similar to those of a designated market and readily accessible therefrom, to which services can be extended conveniently by the Administrator in accordance with the provisions of the acts.

(t) *Grading service*.—A service authorized by the acts and established and conducted under the regulations in this part for the purpose of determining and certifying the class, grade, other quality designation, quantity, or condition of products.

(u) *Office of grading*.—The office of an official grader.

(v) *Grade*—(1) *Noun*.—An important commercial subdivision of a product based on certain definite and preference-determining factors, such as conformation, finish, and quality in meats.

(2) *Verb*.—To determine the class, grade, other quality designation, quantity, or condition of products according to official or tentative standards for such products, or to determine the compliance of products with specifications.

(w) *Class*.—A subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind or species.

(x) *Quality*.—A combination of the inherent properties of a product which determines its relative degree of excellence.

(y) *Condition*.—The physical characteristics of a product which affect its merchantability, with special reference to its state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food.

(z) *Standards*.—The official and tentative standards of the Department for the class, grade, other quality designation, or condition of products (7 CFR, 1946 Supp., 53.101 *et seq.*).

(aa) *Specifications*.—The descriptions of official and tentative standards for products, Federal specifications for products, or such other specifications as may be approved by the Administrator.

(bb) *Grade certificate*.—A certificate issued by an official grader showing the class, grade, other quality designation, quantity, or condition of products graded.

(cc) *Certification of products*.—The preparation and issuance of signed grade certificates as required under the provisions of the regulations in this part.

(dd) *Grade identification*.—A name or symbol denoting the official grade of products graded or on the record of same on an official certificate.

(ee) *Grade-identifying device*.—A brand, stamp, seal, mark, or other device approved by the Administrator to be applied to products or to the containers thereof so as to indicate the grade or condition of such products as determined by an official grader.

(ff) *Appeal*.—A request by financially interested party for appeal grading and certification.

(gg) *Appeal grading*.—The act of grading and certifying products in response to an appeal from original grading and certification.

(hh) *Fees*.—Charges to cover costs of grading services rendered.

(ii) *Container*.—A receptacle, wrapper, or covering in which products are customarily packed and delivered to the meat trade or to consumers.

(jj) *Immediate container*.—A unit carton, can, pot, tin, casing, wrapper, or other receptacle or covering in which products are customarily packed and delivered to the meat trade or to consumers.

(kk) *Shipping container*.—A carton, box, bag, barrel, crate, or other receptacle or covering enclosing products packed in one or more immediate containers.

(ll) *Cooperative agreements*.—Agreements between the Service and other branches of the Federal Government, State agencies, and other agencies or persons as specified in the acts to conduct cooperatively product grading services under the acts and the regulations in this part.

## ADMINISTRATION

**53.3 Authority.**—The Administrator is charged with the administration of the provisions of the regulations in this part and of the acts insofar as they relate to the subject matter of the regulations, and he is authorized to designate important central markets and other locations and to issue such instructions as he may deem proper and necessary for the conduct of the service.

**53.3a Instructions regarding inspection requirements concerning products to be graded.**

(a) *Definitions for determining compliance with inspection requirements.*—Under § 53.2 (l), products, to be eligible for grading service, must be prepared under Federal inspection or other official inspection acceptable to the Administrator. In determining such eligibility the following definitions shall apply:

(1) "Federal inspection" shall mean the meat inspection system conducted under the Meat Inspection Act of March 4, 1907, as amended (21 U. S. C. 71-91) and the regulations promulgated thereunder (9 CFR. 1.1 et seq.).

(2) "Other official inspection acceptable to the Administrator" shall mean any meat inspection system which (i) is conducted under the authority of laws, ordinances, or similar enactments of the State, county, city, or other political subdivision in which is located the plant at which the products are prepared; and (ii) imposes at least the requirements set forth in paragraphs (b) and (c) of this section: *Provided*, that, no such inspection system shall be deemed acceptable to the Administrator with respect to any particular plant in which products to be graded are prepared if he finds at any time that such requirements are not adequately enforced with respect to such plant.

(b) *Requirements as to manner of inspection and operation of plant.*—(1) The inspection shall be conducted by inspectors who are qualified veterinarians or who are supervised by qualified veterinarians. All such inspectors shall be employed and assigned by the State, county, city, or other political subdivision in which the plant is located.

(2) The inspection shall include ante-mortem and post-mortem inspection. The inspector shall examine each animal immediately prior to slaughter for the purpose of eliminating all unfit animals and segregating, for more thorough examination, all animals suspected of being affected with a condition which might influence their disposition on post-mortem inspection. The unfit animals shall not be permitted to enter the slaughtering department of the plant, and the suspected animals shall not be permitted to enter the slaughtering department until they shall have been found by veterinary inspection to be fit for slaughter. The suspected animals that are permitted to be slaughtered shall be handled separate and apart from the regular kill and given a special post-mortem examination.

(3) The post-mortem examination shall be made at the time the animals are slaughtered. The inspectors shall examine the cervical lymph glands, the skeletal lymph glands, the viscera and organs with their lymph glands, and all exposed surfaces of the carcasses of all cattle, calves, sheep, swine, and goats. Such examination shall be conducted in the slaughtering department of the plant during the slaughtering operations.

(4) All of the operations in the slaughtering and allied departments of the plant shall be conducted in a clean and sanitary manner. Facilities shall be provided for the prompt cleaning and sterilization of any contaminated equipment.

(5) All diseased or otherwise unfit carcasses and parts of carcasses, including the viscera, shall be condemned and removed from the slaughtering department of the plant in equipment designated for the purpose, and shall be destroyed for food purposes under the supervision of an inspector. The disposition of all carcasses and parts thereof, including the viscera, shall be under the control of a veterinary inspector.

(6) Each carcass and part thereof which has been inspected and passed shall be stamped with an identifying mark assigned by the State, county, city, or other political subdivision, as the case may be, under the supervision of the inspector, and the marking device shall be in the custody of the inspector at all times.

(c) *Requirements as to sanitation of plant and premises.*—

(1) (i) The plant and its facilities shall be well constructed, properly fitted and equipped for the purpose used, and so maintained that products intended for human food prepared therein will be clean, sound, healthful, and wholesome.

The floors of the plant shall be smooth and impervious and so laid as to drain freely and rapidly to sewer connections. Walls and pillars in the slaughter rooms must be tight, smooth, and free from crevices and, with other parts, shall be kept clean.

(ii) Rooms used for condemned products, inedible offal, hides, and other materials and supplies likely to contaminate or render products inedible shall be completely partitioned from edible product departments and rooms except for one aperture to the slaughtering department. This aperture shall be equipped with a close-fitting door and shall be of sufficient size to allow ready and free passage of materials designated as unfit for human food and all equipment used therewith.

(2) Drainage and sewage disposal must be adequate to maintain the plant and premises in a sanitary condition.

(3) Ventilation shall be sufficient to insure that the atmosphere in rooms where edible product is kept is free from obnoxious odors emanating from inedible tanks and offal rooms, catch basins, toilet rooms, hide cellars, refuse heaps, livestock pens, and similar sources. Lighting shall be adequately maintained in all rooms.

(4) The plant shall be provided with ample supplies of potable hot and cold water, with outlets conveniently located and equipped with faucets for hose connections, for ready use during slaughtering operations and for cleaning. Wash basins equipped with running hot and cold water, soap, and towels shall be placed in or near the dressing rooms and at such other places in the establishment as may be essential to insure cleanliness of all persons handling products. Water for sterilizing purposes shall be maintained at a temperature of at least 180° F.

(5) Toilet rooms shall not communicate directly with any room in which animals are killed or food products thereof are processed, handled, or stored. Dressing room facilities must be adequate for cleanliness and convenience.

(6) All departments in the plant must have adequate protection against flies, rodents, and other vermin. However, the use of poisons for any purpose in rooms or compartments where any unpacked articles intended for human food are stored or handled is forbidden except under such restrictions and precautions as the chief veterinary inspector in charge of inspection at the plant may require. So-called rat viruses shall not be used in any part of the plant or its premises.

(7) Equipment and utensils used in the plant must be made of such material and be so constructed as to be readily and thoroughly cleaned, and shall be kept clean and in sanitary condition. Facilities must be provided for cleaning and sterilizing equipment, tools, and utensils.

(8) Barnyards, stock runs, pens, loading docks, and other facilities appurtenant to the plant shall be kept clean. No nuisance shall be allowed on the premises, such as fly breeding places, dead stock, rat infestation, cockroach infestation, rubbish heaps, decomposing animal material, polluted water supply, insanitary drainage disposal, leaking floors, or the like.

(d) *Definitions made applicable.*—Definitions contained in section 53.2 of terms used in this section shall apply to such terms.

## WHERE SERVICES MAY BE OFFERED

**53.4 Designated markets and locations.**—Grading and certification services in accordance with the provisions of the acts may be offered at the discretion of the Administrator, at designated markets and designated locations.

**53.5 Denial or withdrawal of grading service for administrative reasons.**—The Administrator may deny grading services to, or withdraw them from, any designated market or designated location, or applicant, when he deems such denial or withdrawal to be in the interest of the service. Published notice shall be given of the denial or withdrawal of grading services from any designated market or designated location and notice shall be given to the applicant of the denial or withdrawal of grading services to or from such applicant.

## GRADING SERVICES

**53.6 Kind of service.**—Examination, identification, and certification of products may be made according to the Federal standards for class, grade, other

quality designation, quantity, and condition, or according to specifications approved by the Administrator for this purpose.

**53.7 Request for establishment of grading service.**—Requests for the establishment of grading services at designated markets or at designated locations may be filed with the Administrator.

**53.8 Who may obtain grading service.**—Requests for product grading services may be made by any financially interested party, including common carriers and Federal, State, county, and municipal governments.

**53.9 How to obtain grading service.**—An application for grading service may be filed in an office of grading or with an official grader. It may be made orally (including by telephone), in writing, by telegraph, or by other means of communication. If made orally, the official grader or the office of grading may require that it be confirmed in writing or by telegram stating the facts required by section 53.10.

**53.10 Form of application for grading service.**—Each formal application for grading service shall include such of the following information as may be pertinent: (a) The date of the application; (b) the description and location of the product to be graded; (c) the name and post office address of the applicant or of the person, if other than the applicant, making the application in his behalf; (d) the interest of the applicant (except an official of the Federal Government or of a State government making application in his official capacity) in the product; (e) the name, post office address, and interest of all other known parties, except carriers, in the product; (f) the shipping point and destination of the product; and (g) the type of service desired.

**53.11 When application for grading service deemed filed.**—An application for grading service shall be deemed filed when delivered to an established office of grading. Records showing the date and time of filing shall be made and kept in such office.

**53.12 Denial or withdrawal of grading service for cause.**—(a) Any application for grading service may be rejected, or grading service may be suspended, by the official grader in charge of the office of grading in which the application for service is filed, for noncompliance by the applicant with the regulations prescribing the conditions on which the service is made available, or for any of the causes set forth in paragraph (b) of this section. The official grader shall immediately notify the applicant of such rejection or suspension and the reasons therefor, and through his immediate supervisor shall report his actions, with the reasons therefor, to the Administrator, for informal settlement of the controversy. If such procedure fails to dispose of the matter, the Administrator, without further hearing, may deny the benefits of the acts to the applicant for noncompliance with this subpart prescribing the conditions on which the service is made available; however, the applicant shall be accorded an opportunity for a hearing before a proper officer prior to final denial of the benefits of the acts for any of the causes enumerated in paragraph (b) of this section. Pending final disposal of the matter, grading service may be withheld from the applicant by the Administrator without hearing.

(b) Any willful misrepresentation or fraudulent or deceptive practice made or committed by any applicant for grading service in connection with the filing of any application for grading service; any of the activities outlined in section 53.25; any interference with or obstruction of any employee of the Department in the performance of his duties under the regulations, by intimidation, threats, assaults, or any other improper means; and any willful violation of the regulations or of the supplementary instructions issued by the Administrator may be deemed sufficient cause for denying any further benefits of the acts to the person found guilty thereof after opportunity for a hearing has been accorded him.

(c) All final orders in any proceeding to deny the benefits of the acts to any person (except orders required for good cause to be held confidential and not cited as precedents) shall be filed with the Hearing Clerk and be available to public inspection.

**53.13 When application for grading service may be withdrawn.**—An application for grading service may be withdrawn by the applicant at any time before the service is performed, upon payment of any expenses already incurred in connection therewith.

**53.14 Authority of agent.**—Proof of the authority of any person requesting grading service on behalf of another may be required at the discretion of the official grader.

**53.15 Accessibility of product.**—The applicant shall cause the products on which services are requested to be made easily accessible for grading and to be so placed, with adequate illuminating facilities as to disclose their class, grade, other quality designation, quantity, and condition.

**53.16 Basis of service.**—Examination, identification, and certification for class, grade, other quality designation, quantity, condition, or compliance with specifications, shall be based upon the official or tentative standards of the Department of Agriculture, Federal specifications, or such specifications of other public or private agencies using the service as have been approved by the Administrator.

**53.17 Order of grading.**—Grading services shall be rendered in the order in which the applications are received, except that precedence may be given to requests made by the Federal Government, a State, county, or municipality, and to requests for appeal grading under section 53.30.

**53.18 Financial interest of grader.**—No official grader shall grade any products in which he is directly or indirectly financially interested.

**53.19 Certificates, issuance.**—The official grader shall prepare, sign, and issue official certificates covering products graded by him unless through special arrangements approved by the Administrator this is not required, in which case complete records of the grading shall be furnished the Service.

**53.20 Certificates, form.**—Certificates shall include as much of the following information as may be applicable: (a) the number of the certificate; (b) name of designated market and place of grading; (c) date of grading; (d) names and addresses of applicant, party in possession, and shipper and buyer if known; (e) the true class, grade, other quality designation, and condition of the products graded; (f) the exact number of carcasses, sides, quarters, cuts, and packages of products graded by classes and grades; (g) if previously graded, reference to previous certificate by number; (h) if rejected, reason for rejecting; (i) the weight of the products of each class, grade, or other quality designation, and the total weight of the lot; (j) the amount of time employed by the official grader and the amount of fees and expenses to be charged to the applicant; (k) name of official grader or graders; and (l) additional facts necessary to describe fully the condition, class, grade, other quality designation, or quantity of the products.

**53.21 Certificates, disposition of.**—The original certificate and not to exceed two copies shall be delivered or mailed immediately to the applicant or a person designated by him. One copy shall be filed in the office of the official grader and one copy forwarded to the Administrator. Copies of certificates shall be kept on file until other disposition is ordered by the Administrator. Copies will be furnished to other financially interested parties as outlined in section 53.35 (f).

**53.22 Certificate, advance information concerning.**—Upon request of any applicant, all or any part of the contents of the certificate concerning products covered by his application may be transmitted by telegraph or telephone to him, or to any person designated by him, at his expense.

## GRADE IDENTIFICATION

**53.23 Evidence of grade.**—As evidence to applicants, purchasers, consumers, and others of the class, grade, other quality designation, or condition of products graded under the acts, all such products or the immediate and shipping containers thereof shall bear a mark or marks which shall show in plain, prominently displayed characters the true grades of such products in accordance with the provision of this section.

(a) *Products officially graded shall be identified for grade.*—Products graded under the acts and in accordance with the regulations in this part shall be stamped, branded, or otherwise marked with an appropriate grade-identifying device bearing a name or symbol to show the true grade of such products according to the United States standards or their compliance with specifications, except that such marks may not be required when an applicant only desires official certificates for class, grade, other quality designation, quantity, or condition.

(b) *Supervision of grade identifications.*—Official graders shall stamp, brand, label, tag, seal, or otherwise identify the correct grade on products or supervise such operations when they are performed by others.

(c) *Grade-identifying devices.*—The Administrator may authorize or approve devices for branding, stamping, or imprinting the official grade on products or the

containers thereof or for indicating the compliance of such products with specifications.

(d) *What grade-identifying device shall show.*—Each grade-identifying device shall bear a name or appropriate symbol, approved by the Administrator, clearly indicating the grade of the product as determined by an official grader, and such other marks or symbols as may be required by the Administrator for the proper identification of the product and the service rendered.

**53.24 Custody of grade-identifying devices.**—All grade-identifying devices, including those indicating compliance with specifications approved by the Administrator, shall be kept in the custody of the Service and accurate records shall be kept by the Service of all grade-identifying and other related devices. Each office of grading shall keep a record also of the devices assigned to it. Such devices shall be distributed only by authorized employees of the Service who shall maintain complete records of same.

**53.25 Alteration or imitation of grade-identifying devices, marks, and certificates, etc., forbidden.**—No brand, stamp, tag, or other grade-identifying device, or word, symbol, or legend thereof, or certificate or grade label authorized or approved under this subpart, shall be altered, defaced, imitated, or simulated in any respect or used for the purpose of misrepresentation or deception. (See section 53.12.)

### APPEAL GRADING

**53.26 When appeal grading may be made.**—A request for appeal grading may be made by any financially interested party whenever he is dissatisfied with the class, grade, other quality designation, quantity or condition shown on the officially graded and identified product or stated in the applicable certificate.

**53.27 How to obtain appeal grading.**—Appeal grading may be obtained by filing a request for same with the Administrator (a) direct, or (b) through the official in charge of the meat grading service at the nearest designated market, or (c) through the grader who did the original grading. The request for appeal grading shall state the reasons therefor and may be accompanied by a copy of any previous grading certificate or report or any other information which the applicant may have received regarding the product at the time of the original grading. Such request may be made orally (including by telephone), in writing, by telegraph, or otherwise. If made orally, the person receiving the request may require that it be confirmed in writing in the same manner as specified in sections 53.9 and 53.10 for obtaining grading service. Requests for appeal grading received through the office of grading or an official grader shall be transmitted promptly to the Administrator for instructions.

**53.28 When appeal may be refused.**—If it shall appear that the reasons stated in a request for appeal grading are frivolous or unsubstantial, or that the quality or condition of the products has undergone a material change since the original grading, or that the products cannot be made accessible for thorough examination and grading, or that the identity of the products has been lost, or that the regulations prescribing the conditions on which the grading service is made available have otherwise not been complied with, the request for appeal grading may be denied by the Administrator. A request for appeal grading may also be denied, after opportunity for hearing before a proper officer has been accorded the applicant, for any of the causes enumerated in section 53.12 (b), and pending investigation and hearing the applicant may be denied the benefits of the acts by the Administrator without hearing. The provisions of section 53.12 (c) shall also apply to final orders granting or denying appeal grading service.

**53.29 When appeal may be withdrawn.**—A request for appeal grading may be withdrawn by the applicant at any time before the regrading has been performed upon payment of any expenses incurred by the Service in connection therewith.

**53.30 Order in which appeal gradings shall be made.**—Appeal gradings shall be performed as far as practicable in the order in which requests are received. They shall take precedence over all other pending grading requests.

**53.31 Who shall make appeal gradings.**—Appeal grading of products shall be made by official graders designated therefor by the Administrator or by the person in charge of an office of grading, when so authorized by the Administrator, and such grading shall be conducted jointly by two official graders when practicable. No official grader shall pass upon the correctness of his own grading or of a certificate issued by him.

**53.32 Appeal grading certificate.**—Immediately after an appeal grading has been made, a certificate designated or marked as "appeal grading certificate" shall be prepared, signed, and issued referring specifically to the original certificate and stating the class, grade, other quality designation, quantity, or condition of the product as shown by the appeal grading. In all other respects, the provisions of sections 53.6 to 53.22 shall apply to such appeal grading certificates except that, if the applicant for appeal grading be not the original applicant, a copy of the appeal grading certificate shall be mailed to the original applicant.

**53.33 Superseded certificates.**—The appeal grading certificate shall supersede the original grading certificate, which, thereupon, shall become null and void and shall not thereafter represent the class, grade, other quality designation, quantity, or condition of the product described therein. If the original and all copies of the superseded certificate are not delivered to the person with whom the application for appeal grading is filed, the officer (or officers) issuing the appeal grading certificate shall forward notice of such issuance and of the cancellation of the original certificate to such person as he (or they) may deem necessary to prevent fraudulent use of the cancelled certificate.

**53.34 When request for regrading is not an appeal.**—Grading requested to determine the condition of products which have been graded previously and which may have undergone material change since the original grading, and regrading requested for the purpose of obtaining an up-to-date certificate and not involving any question as to the correctness of the original certificate covering the products in question shall not be considered appeal grading within the meaning of sections 53.26 to 53.34.

### CHARGES FOR GRADING SERVICES

**53.35 Fees and other charges for grading services.**—Fees and other charges equal as nearly as may be to the cost of the grading services rendered shall be assessed and collected from applicants as follows:

(a) *Fees based on hourly rates.*—Except as otherwise provided in this section, fees for grading services shall be based on the time actually required to render the services, including the time required for the travel of the official grader in connection therewith, and shall be at hourly rates prescribed from time to time by the Secretary. A minimum charge for one-half hour shall be made notwithstanding that the time required to perform the services may be less than thirty minutes.

(b) *Fees for grading services in unusual circumstances.*—The Secretary may, in lieu of the fees that would be assessed under paragraph (a) of this section, establish other reasonable charges for grading services to be rendered in unusual circumstances, at rates that in his judgment will equal as nearly as may be the cost of the services.

(c) *Charges under cooperative agreements.*—Charges for grading services under cooperative agreements shall be those prescribed by the Secretary under paragraph (a) of this section, unless otherwise stipulated in the agreements.

(d) *Fees for investigations of acceptability of inspection.*—When an application is made for the institution of grading services on products prepared at a particular plant under inspection conducted by a State, county, city, or other political subdivision, or when an application is made for restoration of grading services previously withdrawn with respect to such products, there shall be charged in addition to the fees and charges otherwise chargeable under this section, such fees as may be prescribed by the Secretary to cover the cost of all investigations other than the first investigation which the Secretary may find are necessary to determine whether such inspection is acceptable under the regulations. No fees shall be charged for examinations conducted by the Administrator at plants previously found acceptable in order to determine whether the inspection requirements specified under the regulations are being adequately enforced at such plants.

(e) *Fees for appeal grading.*—Fees for appeal grading shall be double those charged for the original grading services: *Provided*, That any fees charged under paragraph (d) of this section shall not be included in calculating the appeal grading fees: *And provided further*, That when on appeal grading it is found that there was error in the original grading equal to or exceeding ten percent of the total weight of the products graded no charge will be made for the appeal grading unless a special agreement therefor is made with the applicant in advance.

(f) *Charges for extra copies of grading certificates.*—Upon payment of a fee of one dollar (\$1.00), any financially interested party may obtain not to exceed three copies of a grading certificate, in addition to copies of the certificates issued under section 53.21.

**53.35a Fees for grading service.—**

(a) The hourly rate for grading service shall be \$3.60 per hour with a minimum charge of \$1.80.

(b) Fees for grading performed on a weekly contract basis shall be \$122.40 per calendar week (less any allowable credits), to cover up to 34 hours of weekly grading service, and at the regular rate prescribed in paragraph (a) of this section for grading time in excess of 34 hours per week.

(c) When grading service is requested at a place so distant from a grader's official headquarters that a total of 1 hour or more is required for the grader to travel to and from such place, the fee for such grading service shall equal the usual fee calculated at the applicable rates prescribed in paragraph (a) or (b) of this section, as the case may be, plus a mileage fee of 7 cents per mile for such travel.

(d) When grading service is requested at a place so distant from a grader's official headquarters that the work and travel required for such service cannot be performed within a calendar day, the fee for such grading service shall equal the usual fee calculated at the applicable rates prescribed in paragraph (a) or (b) of this section, as the case may be, plus any mileage chargeable under paragraph (c) of this section and a per diem charge at the rate of \$9 per day for each day or quarter portion thereof spent by the grader away from his official headquarters in the performance of such work and travel. A fee of \$2.25 shall be charged for such work and travel although the time spent therein is less than a quarter portion of a day.

(e) The following fees are prescribed for each investigation other than the first one necessary to determine the acceptability of an inspection system at any nonfederally inspected plant preparing products for which application for grading service is made. A fee at the rate of \$3.60 per hour shall be charged for time actually spent by an authorized official in making such investigation and in traveling to the particular plant from the place at which he receives the assignment to perform such work and in traveling back to such place or to another place equally distant from such plant. In addition there shall be charged a transportation fee not to exceed 7 cents per mile for such travel plus any per diem at the rate of \$9 per day or portion thereof paid to such official in accordance with applicable regulations of the Department of Agriculture. In no case shall the total fees for any such investigations be less than \$15.

**53.36 How fees shall be paid.—**Fees and other charges shall be paid by the applicant in accordance with directions on the fee bill furnished him, and in advance if required by the official grader.

**53.37 Disposition of fees.—**Fees and other moneys collected for grading services rendered shall be handled as indicated in paragraphs (a) and (b) of this section.

(a) *By graders employed by the Department.*—Upon receipt of appropriate billing, fees for grading done by graders exclusively employed by the Department shall be remitted to the Service by check, draft, or money order made payable to the Treasurer of the United States.

(b) *By graders under cooperative agreements.*—Fees for grading done by graders acting under cooperative agreements with a State or municipal organization, or other cooperating party, shall be paid in accordance with the terms of such agreements.

## MISCELLANEOUS

**53.38 Misconduct of official graders, etc.—**Any official grader, supervisor of grading, or other employee of the Department performing any functions under the acts or this subpart, who shall be a party to any fraud, deception, willful misapplication of grade standards, or other misconduct outlined in section 53.12 or 53.25, or who shall conceal knowledge thereof, shall, at the discretion of the Secretary, be dismissed from the Department with prejudice or otherwise disciplined according to the gravity of his offense.

**53.39 Political activity.—**All official graders, supervisors of grading, and other employees of the Department performing any functions under the acts or the regulations in this part are forbidden during the period of their appointment,

to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, in behalf of or opposition to any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including temporary and cooperative employees, and employees on leave of absence with or without pay. Willful violations of this section will constitute grounds for dismissal.

**53.40 Identification.**—All official graders and supervisors of grading shall have in their possession at all times Service identification cards and shall identify themselves by such cards on request.

**53.41 Correction of errors in grading.**—When an official grader, supervisor of grading, or other responsible employee of the Service has evidence of misgrading, or of incorrect grade identification on a product, or of incorrect certification, he shall report same to his immediate superior officer and to the party having possession of the product. The supervisor of grading or the officer in charge of grading shall cause such errors to be corrected.

**53.42 Publications.**—Publications under this part shall be made in the Service and Regulatory Announcements of the Service and through such other media as the Administrator may from time to time designate for the purpose or as may be required by law.

